UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,542	03/27/2004	Justice C. Rines		8972

41840   7590   11/25/2008
RINES & RINES
24 Warren St.
CONCORD, NH 03301

EXAMINER
CRANFORD, MICHAEL D

ART UNIT	PAPER NUMBER
3696	

MAIL DATE	DELIVERY MODE
11/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *14 July 2008*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-20* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   This action is in reply to the amendment filed on 14 July 2008.

2.   Claims 1, 7, 11, and 17 have been amended.

3.   Claims 1-20 are currently pending and have been examined.

4.   Rejections of claims 1-20 have been updated to reflect the amendments.

Applicant's arguments received on received on 14 July 2008 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled "Status of Claims." This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.

With regard to the limitations of claim 1, 4, 7-11 and 17-20 Applicant argues Cooper et al. does not do any billing for the use of copyrighted material. However, Cooper et al. does identify one aspect of the art relating to a system that implements a payment transaction with the user....a system that bills the user. These transactions are done via the Internet which means an Internet Service Provider is part of this system. Applicant further argues that because Cooper et al. does not overcome nor teach any aspect of Applicant's invention. Claims 2, 3, 12, and 13 rejected under 35 U.S.C. 103(a) as being "obvious" combination of billing and fee distribution in the Himeno et al. publication this art fails to support the basis of this rejection. Applicant continues by stating that for the same obvious rejection under Levy this art fails to teach what is claimed in the Applicant's invention. And therefore, claims 5, 6, 15 and 16 should not be rejected and reconsidered. Examiner finds that because Cooper et al. discloses a system where

copyrighted material is downloaded, the Applicant's arguments do not overcome rejections.

Claim 1:

(Currently Amended) A method of Internet controlling, tracking and billing for the usage of vendor digital recorded media by subscribing downloading consumers, that comprises, enabling subscribing Internet consumers to access an established ISP gateway <u>unique to and identifying the consumer</u> under a predetermined ISP/consumer service billing relationship; embedding the respective vendor media with identifying digital code watermarking <u>specific to the media and vendor;</u> passing through said ISP gateway the respective code-embedded vendor media to the respective subscribing, ISP <u>gateway-identified</u> consumers for downloading; and implementing said ISP gateway also to serve as a media tollbooth, <u>automatically billing consumer via the existing ISP,</u> tracking and identifying the respective code-embedded vendor media passing through the ISP gateway to the respective subscribing consumers and automatically adding to said predetermined ISP/consumer billing, the appropriate further billing charges of the respective media vendors for such respective consumer downloading usage.

Applicant's amended claim 1 now adds: unique to and identifying the consumer, specific to the media and vendor, gate-way identified, automatically billing consumer via the existing ISP.

Cooper et al. discloses on page 2 paragraph 0018….a transaction module is coupled to the interface module and configured to initialize a transaction with the user, authenticate the identity of a user, obtain a digital certificate related to said user, search for content desired by said user, implement a payment transaction with the user, and insert said watermark into said content.

Claim 7:

(Currently Amended) A method of Internet service for usage of vendor digital recorded media by subscribing downloading consumers, that comprises, enabling subscribing Internet consumers to access an established ISP gateway <u>unique to and identifying the consumer</u> under a predetermined ISP/consumer relationship; and implementing said ISP gateway also to direct passage of said vendor digital recorded media through said gateway to the respective subscribing consumers, while performing the further

function of a tollbooth <u>automatically billing consumer via the existing ISP,</u> as a service to vendors and customers for tracking the digital recorded media passing through said gateway. Applicant's amended claim 7 now adds: unique to and identifying the consumer, automatically billing consumer via the existing ISP.

Cooper et al. discloses on page 2 paragraph 0018....a transaction module is coupled to the interface module and configured to initialize a transaction with the user, authenticate the identity of a user, obtain a digital certificate related to said user, search for content desired by said user, implement a payment transaction with the user, and insert said watermark into said content.

Claim 11:

(Currently Amended) A system for Internet controlling, tracking and billing for the usage of vendor digital recorded media by subscribing downloading consumers, having, in combination with an established ISP gateway from the Internet, means for enabling subscribing Internet consumers to access the established ISP gateway <u>unique to and identifying the consumer</u> under a predetermined ISP/consumer service billing relationship; means for enabling the vendors to download their respective media, into the Internet, with each respective vendor media being embedded with respective identifying digital code watermarking; means for passing through said ISP gateway the respective code-embedded vendor media to the respective subscribing consumers for downloading; and means for implementing said ISP gateway also to serve as a media tollbooth, <u>automatically billing consumer via the existing ISP,</u> with means for tracking and identifying the respective code-embedded vendor media passing through the ISP gateway to the respective subscribing consumers and means for automatically adding to said predetermined ISP/consumer billing, appropriate further vendor billing charges of the respective media vendors for such respective consumer downloading usage.

Applicant's amended claim 11 now adds: unique to and identifying the consumer, automatically billing consumer via the existing ISP.

Cooper et al. discloses on page 2 paragraph 0018....a transaction module is coupled to the interface module and configured to initialize a transaction with the user, authenticate the identity of a user, obtain a

digital certificate related to said user, search for content desired by said user, implement a payment transaction with the user, and insert said watermark into said content.

Claim 17:

(Currently Amended) A system of Internet service for usage of vendor digital recorded media by subscribing downloading consumers, having, in combination with an established ISP gateway unique to and identifying the consumer from the Internet, means for enabling subscribing Internet consumers to access the established ISP gateway under a predetermined ISP/consumer relationship; and means for implementing said ISP gateway also to direct vendor digital recorded media through said gateway to the respective subscribing consumers, while performing the further function of a tollbooth automatically billing consumer via the existing ISP, for the vendors for tracking the digital recorded media passing through said gateway.

Applicant's amended claim 17 now adds: unique to and identifying the consumer, automatically billing consumer via the existing ISP.

Cooper et al. discloses on page 2 paragraph 0018....a transaction module is coupled to the interface module and configured to initialize a transaction with the user, authenticate the identity of a user, obtain a digital certificate related to said user, search for content desired by said user, implement a payment transaction with the user, and insert said watermark into said content.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or

in public use or on sale in this country, more than one year prior to the date of application for

patent in the United States.

6.   Claims 1, 4, 7-11, 14, 17-20 are rejected under 35 U.S.C. 102(b) as being unpatentable over

Cooper et al. (US PGP 2001/0051996 A1).

7.   **Claim 1:**

Cooper et al. shown, discloses the following limitations:

- *enabling subscribing Internet consumers to access the established ISP gateway under a predetermined ISP/consumer relationship* (see at least page 10 paragraph 0137...Netscape (ISP) has a mechanism to store and manipulate encryption keys and digital certificates....providing a more secure downloading of electronic media by consumers)

- *embedding the respective vendor media with identifying digital code watermarking* (see at least page 2 paragraph 0019... a watermark is generated by the system which relates to the content to be downloaded, the source of the content and the identity of user....watermark is inserted into the content prior to its downloading to the user)

- *passing through said ISP gateway the respective code-embedded vendor media to the respective subscribing consumers for downloading* (see at least page 2 paragraph 0019....method for distributing content over a network...digital certificate of the user is then authenticated...user is allowed to search for and select content to be downloaded ...a water mark is generated by the system which relates to the content to be downloaded)

- *implementing said ISP gateway also to serve as a media tollbooth, tracking and identifying the respective code-embedded vendor media passing through the ISP gateway to the respective subscribing consumers and automatically adding to said*

predetermined ISP/consumer billing (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

- *further billing charges of the respective media vendors for such respective consumer downloading usage* (see at least page 2 paragraph 0018...transaction module is coupled to the interface module and configured to initialize a transaction with the user/vendor, authenticate the identity of the user, obtain a digital certificate related to said user/vendor, search for content desired by said user, implement a payment transaction with the user)

8.   **Claim 4:**

Cooper et al. shown, discloses the following limitations:

- *media are selected from the group consisting of music records, movies and software products* (see at least page 2 paragraph 0019...user is allowed to search for and select content to be downloaded....a watermark is generated by the system which relates to the content to be downloaded...such content for example...music)

9.   **Claim 7:**

Cooper et al. shown, discloses the following limitations:

- *enabling subscribing Internet consumers to access the established ISP gateway under a predetermined ISP/consumer relationship* (see at least page 10 paragraph 0137...Netscape (ISP) has a mechanism to store and manipulate encryption keys and digital certificates....providing a more secure downloading of electronic media by consumers)

- *implementing said ISP gateway also to direct passage of said vendor digital recorded media through said gateway to the respective subscribing consumers* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately) *performing the further function of a tollbooth as a service to vendors and consumers for tracking the digital recorded media passing through said gateway* (see at least page 7 paragraph 0093....GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

10.   **Claim 8:**

Cooper et al. shown, discloses the following limitations:

- *tollbooth function includes collecting or billing for vendor charges for such downloading* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

11.   **Claim 9:**

Cooper et al. shown, discloses the following limitations:

- *said billed vendor charges are distributed, credited or allocated to the respective vendors, with said ISP gateway retaining a service charge* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

12.   **Claim 10:**

Cooper et al. shown, discloses the following limitations:

- *tracking is aided by respective media- embedded digital identifying code readable by said ISP gateway as the respective recorded media pass therethrough* (see at least page 5 paragraph 0063...(see at least page 2 paragraph 0019... a watermark is generated by the system which relates to the content to be downloaded, the source of the content and the identity of user....watermark is inserted into the content prior to its downloading to the user)

13.   **Claim 11:**

Cooper et al. shown, discloses the following limitations:

- *enabling subscribing Internet consumers to access the established ISP gateway under a predetermined ISP/consumer relationship* (see at least page 10 paragraph 0137...Netscape (ISP) has a mechanism to store and manipulate encryption keys and digital certificates....providing a more secure downloading of electronic media by consumers)

- *enabling the vendors to download their respective media, in the Internet, with each respective vendor media being embedded with respective identifying digital code watermarking* (see at least page 2 paragraph 0019... a watermark is generated by the system which relates to the content to be downloaded, the source of the content and the identity of user....watermark is inserted into the content prior to its downloading to the user)

- *passing through said ISP gateway the respective code-embedded vendor media to the respective subscribing consumers for downloading* (see at least page 2 paragraph 0019....method for distributing content over a network...digital certificate of the user is then authenticated...user is allowed to search for and select content to be downloaded ...a water mark is generated by the system which relates to the content to be downloaded)

- *implementing said ISP gateway also to serve as a media tollbooth, with means for tracking and identifying the respective code-embedded vendor media passing through the ISP gateway to the respective subscribing consumers and means for automatically adding to said predetermined ISP/consumer billing* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

- *further vendor billing charges of the respective media vendors for such respective consumer downloading usage* (see at least page 2 paragraph 0018...transaction module is coupled to the interface module and configured to initialize a transaction with the user/vendor, authenticate the identity of the user, obtain a digital certificate related to said user/vendor, search for content desired by said user, implement a payment transaction with the user)

14.   **Claim 14:**

Cooper et al. shown, discloses the following limitations:

- *media are selected from the group consisting of music records, movies and software products* (see at least page 2 paragraph 0019...user is allowed to search for and select content to be downloaded....a watermark is generated by the system which relates to the content to be downloaded...such content for example...music)

15.   **Claim 17:**

Cooper et al. shown, discloses the following limitations:

- *enabling subscribing Internet consumers to access the established ISP gateway under a predetermined ISP/consumer relationship* (see at least page 10 paragraph 0137...Netscape (ISP) has a mechanism to store and manipulate encryption keys and digital certificates....providing a more secure downloading of electronic media by consumers)

- *implementing said ISP gateway also to direct vendor digital recorded media through said gateway to the respective subscribing consumers* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

- *performing the further function of a tollbooth for the vendors for tracking the digital recorded media passing through said gateway* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

16.   **Claim 18:**

Cooper et al. shown, discloses the following limitations:

- *tollbooth function includes means for collecting, billing or crediting for vendors, the charges for such downloading* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

17.   **Claim 19:**

Cooper et al. shown, discloses the following limitations:

- *vendor charges are distributed to the respective vendors, with said ISP gateway retaining or otherwise making a service charge* (see at least page 7 paragraph 0093...GDRAS monitors digital certificates that are issued specifically for content files....in addition GDRAS checks the transaction database for the total amount of money collected from the user, and apportion all monies collected appropriately)

18.   **Claim 20:**

Cooper et al. shown, discloses the following limitations:

- *tracking is aided by providing embedded digital-code identification in said media, and by means for detecting such code in said ISP gateway as the respective code-embedded recorded media pass therethrough* (see at least page 2 paragraph 0019... a watermark is generated by the system which relates to the content to be downloaded, the source of the content and the identity of user....watermark is inserted into the content prior to its downloading to the user)

Claim Rejections - 35 USC § 103

19.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

20.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.

3.   Resolving the level of ordinary skill in the pertinent art.

4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

21.   Claims 2, 3, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper

        et al. (US PGP 2001/0051996 A1) in view of Himeno et al. (US PGP 2004/0254851 A1).

22.   **Claim 2:**

        Cooper et al. discloses the limitations as shown in the rejections above. Cooper et al. does not

        disclose the following limitations, but Himeno et al. however, as shown, does:

- *such respective further billing charges for respective consumer downloading usage are*

  distributed or credited amongst the respective appropriate media vendors (see at least

  page 7 paragraph 0162....system operator remits the contents usage fees collected

  from the subscribers, minus the due charges or the system operator, to the electronic

  merchandise distribution apparatus)

It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine the billing of consumer downloading of material and taking such fees distributing them to

vendors/others because this would ensure proper payment to all parties such as artist and

distributors.

23.   **Claim 3:**

        Cooper et al. discloses the limitations as shown in the rejections above. Cooper et al. does not

        disclose the following limitations, but Himeno et al. however, as shown, does:

- *ISP gateway retains a service fee from said further billing charges* (see at least page 7

  paragraph 0162...system operator 13 remits the contents usage fees collected from

  the subscribers, minus the due charges of the system operator, to the electronic

  merchandise distribution apparatus 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine the retaining of a service fee by the ISP gateway from consumers because this would

ensure payment to the ISP for services provided to the user.

24.   **Claim 12:**

Cooper et al. discloses the limitations as shown in the rejections above. Cooper et al. does not

disclose the following limitations, but Himeno et al. however, as shown, does:

- *further respective vendor billing charges for respective consumer downloading usage*

    are distributed or credited amongst the respective appropriate media vendors (see at

    least page 7 paragraph 0162…system operator 13 remits the contents usage fees

    collected from the subscribers, minus the due charges of the system operator, to the

    electronic merchandise distribution apparatus 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine vendor billing charges for respective consumer usage then distribute payment to

respective parties because this would ensure proper payment to those providing electronic media

and or services to consumers.

25.   **Claim 13:**

Cooper et al. discloses the limitations as shown in the rejections above. Cooper et al. does not

disclose the following limitations, but Himeno et al. however, as shown, does:

- *ISP gateway retains a service fee from said further billing charges or otherwise* (see

    at least page 7 paragraph 0162…system operator 13 remits the contents usage fees

    collected from the subscribers, minus the due charges of the system operator, to the

    electronic merchandise distribution apparatus 1)

It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine the collecting of a service fee to the ISP gateway because this would ensure payment to

the ISP for services provided to the consumer.

26.   Claims 5, 6, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et

al. (US PGP 2001/0051996 A1) in view of Himeno et al. (US PGP 2004/0254851 A1) and further

in view of Levy (US PGP 2002/0052885 A1).

27.   **Claim 5:**

Cooper et al. and Himeno et al. discloses the limitations as shown in the rejections above. Cooper et al. and Himeno et al. does not disclose the following limitations, but Levy however, as shown, does:

- *media are music records, and the distribution includes to the respective music record vendors* (see at least page 5 paragraph 0065...MP3 content owners, such as Emusic.com, and MP3.com can embed their songs with copyright bits that control file sharing without audibility issues, and can additionally embed unique IDs that can be used to connect content back to the retailers and the artist's web site for increased e-commerce options)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the distribution of music from music vendors because this would ensure that consumers receive specific electronic media, media that is only music.

28.   **Claim 6:**

Cooper et al. and Himeno et al. discloses the limitations as shown in the rejections above. Cooper et al. and Himeno et al. does not disclose the following limitations, but Levy however, as shown, does:

- *distribution also includes royalties and related payments to performing artists and musicians, composers and record producers and distributors* (see at least page 7 paragraph 0093....a Global Digital Rights Apportionment System (GDRAS) makes it possible to apportion the money that is designated for artists, copyright owners, content owners, and other deserving entities in an efficient manner)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the distribution of electronic media with the payment of fees to artists/musicians because this would ensure payment to the artists/musicians who created the electronic media/music.

29.   **Claim 15:**

Cooper et al. and Himeno et al. discloses the limitations as shown in the rejections above. Cooper et al. and Himeno et al. does not disclose the following limitations, but Levy however, as shown, does:

- *media are music records, and the distribution includes to the respective music record vendors* (see at least page 5 paragraph 0065...MP3 content owners, such as Emusic.com, and MP3.com can embed their songs with copyright bits that control file sharing without audibility issues, and can additionally embed unique IDs that can be used to connect content back to the retailers and the artist's web site for increased e-commerce options)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the charging of royalty fees for the music/media being downloaded because this would ensure payment to artist/musicians for the use of their recordings and or work.

30.   **Claim 16:**

Cooper et al. and Himeno et al. discloses the limitations as shown in the rejections above. Cooper et al. and Himeno et al. does not disclose the following limitations, but Levy however, as shown, does:

- *distribution also includes royalties and related payments to performing artists and musicians, composers and record producers and distributors* (see at least page 7 paragraph 0093...a Global Digital Rights Apportionment System (GDRAS) makes it possible to apportion the money that is designated for artists, copyright owners, content owners, and other deserving entities in an efficient manner)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the distribution of media/music with royalty fees and other payments because this would ensure that recording artists receive payment for the downloading of their material.

FINAL CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CONCLUSION

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Michael D. Cranford** whose telephone number is **571-270-3106.** The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Thomas Dixon** can be reached at **571-272-6803**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair <http://pair-direct.uspto.gov >. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark**

Office Customer Service Window:

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

/ Michael Cranford / Examiner / Art Unit 4143 /
November 16, 2008

/Frantzy Poinvil/
Primary Examiner, Art Unit 3696